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Memorial

OF THE

DELEGATES

OF THE

CHEROKEE NATION

TO THE

PRESIDENT

OF THE

United States,

AND THE

Senate and House of Representatives in Congress.

WASHINGTON CHRONICLE PRINT,
1866.

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To the President of the United States, and to the Senate and House of Representatives.

With hearts full of sorrow, we are constrained to beg your attention to our earnest prayer in behalf of our afflicted and distressed Nation.

We learn that a bill has been introduced into Congress, entitled "A bill to consolidate the Indian tribes, and to establish Civil Government in the Indian Territory."

It is our solemn conviction, and the conviction of our people, that if that bill becomes a law, and is carried into execution, it will crush us as a people, and destroy us as a Nation. In hope of averting such a calamity, we beg your consideration of a few facts, which will show our claim on the United States for justice—our claim on them to observe sacredly, all their treaty obligations to us.

When the rebellion broke out, the Cherokees were divided into two parties. *The loyal, and the disloyal.* Both had been thoroughly organized for two or three years—and prepared for the struggle. Under the lead of Stand Watie, lately a General in the rebel army, the disloyal element, (small in numbers but backed by strong influences from the rebellious States,) had been organized into "Blue Lodges," and "Knights of the Golden Circle." The loyal masses, by a general movement of the populace, had organized themselves into a Loyal League, known as the Ketoowha Society, but by the rebels it was called, in derision, "The Pin Society." This Loyal League embraced the great mass of the men of the Cherokee Nation, especially the full blooded Indians.

The object of this League was resistance to encroachments on Indian rights and Indian Territory and to preserve the integrity and the peace of the Cherokee Nation, according to the stipulations of the treaty of A. D., 1846.

The Constitution of that Society bound its members by the most sacred obligations, to an unyielding fidelity to our treaties with the United States, and to an unfaltering support of our own National Government, constituted under those treaties. Lodges of this society were formed in every part of our country, and the great majority of the voters of the Nation joined it. Secret meetings were held among the mountains, and in deep forests. There eternal fidelity to our treaty obligations was inculcated on young and old.

By these means, the great majority of the Cherokees were already well grounded in their fidelity to the Federal Government. Their friendship for "the North" was enthusiastic. Their opposition to the rebels was intense. While some members of the Society were pro-slavery in their sentiments, yet they loved their country better than slavery—while the great majority of its members were positive and strong anti-slavery men. Many were Christians and were opposed to slavery, not only from patriotic motives, but from religious conviction also.

When hostilities began, Stand Watie raised a rebel regiment, consisting chiefly of the most desperate characters. There were a few

full bloodod Cherokees in this regiment, and a somewhat larger number of mixed blooded Cherokees, but the majority of the regiment were white men, and the majority of those white men were not citizens of the Cherokee Nation. Yet, all the odium of their depredations was saddled on to the Cherokees. These desperadoes and their friends made several attempts to raise the rebel standard in the Cherokee Nation. On each several occasion, the loyal populace, either prevented the raising of the rebel flag, or tore it down when raised, and dispersed those making the treasonable demonstrations, until at length these rebels succeeded in holding a convention at Batie's Prairie, which was attended by a very small number. There they completed their arrangements for a formal alliance with the Confederacy.

Several collisions had already taken place between the Loyal Cherokees and the rebels in their midst, and a general fight seemed imminent. If such a fight had occurred, there would have been no chance of success for us, as the whole of Ben McCulloch's forces stood ready to pounce upon us, while the Choctaws and Chickasaws, and many of the Creeks and Seminoles had already joined the rebellion. We and Opothleyoholo's noble band of Creeks and Seminoles stood alone in our loyalty; but we were far from the counsel, and the pledged protection of our friend and guardian, the United States Government. Long and earnestly were we solicited to join the rebellion, but we stood firm. Finally the time for solicitation passed, and the time for compulsion came. No friend or defender was near. The army of our "Great Father, the President," was gone. Every post in the Indian country and its vicinity was abandoned, and all the Indian agents in that country were traitors, even those appointed by Mr. Lincoln.

While thus environed, as the only means of averting the wholesale slaughter of the loyal Cherokees, a convention was called. At that convention, (August 21st, 1861,) under duress the most complete and unmitigated, our people were compelled to empower the authorities of the Nation to treat with the rebels. We repeat it with emphasis, *This convention was held, and this action was taken only as a means of escaping extermination.* A band of Stand Watie's Rebels had already concealed arms in a hotel, in front of the public square, where the convention was held. In case the convention had determined on a contrary course, this band was prepared then and there to open a war of extermination on the loyal Cherokees. But by the act of the convention, a collision with the rebels was averted for the time being. A messenger was now sent to Albert Pike, Rebel Commissioner, to say that we were ready to make a treaty, which we had refused to do a short time previous. This treaty was entered into on the 7th day of the ensuing October. By it we hoped still to avert a collision with the rebel forces, until succor could reach us from the Union army.

But the depredations of Stand Watie's desperadoes, were so distressing that a regiment of loyal Cherokees was raised, ostensibly for the purpose of co-operating with the rebel army, but really for the purpose of stopping the violence and outrage, every day committed or attempted by these desperadoes, on the loyal Cherokees. After the treaty

was entered into, this regiment was taken into the rebel service, but most of its officers, and nearly all of its men, were as earnestly loyal to the United States as any soldiers in the Union service. This you may doubt, but the reality and earnestness of their loyalty was as abundantly verified by their conduct subsequent to the convention, and the treaty, as it was by their previous course. Give us your attention while we state a few facts which prove this assertion.

Opothleyoholo, and the loyal Creeks and Seminoles, and portions of other tribes, had been driven from their country by the rebels, and were camped in the western part of the Cherokee country. Gen. Cooper (rebel) had sent Captain McDaniel, of the Cherokee regiment (and one of our delegates now present,) with a party to induce those loyal Indians to come in and submit to the rebel authority. Capt. McDaniel went, but instead of fulfilling this mission, he and his men joined the loyal Indians.

Still, however, he kept up communication with Gen. Cooper, but whenever he sent a despatch purporting to inform the General of the progress of his mission, he always sent a secret message to the Union League, in the rebel service, informing them of his real movements. Finally, Gen. Cooper discovered the trick, and marched his whole brigade against Opothleyoholo and Capt. McDaniel. On the 7th of December, 1861, Cooper camped near his enemy. Members of the Union League were placed on picket. At night, Capt. McDaniel approached them, was cordially received, passed into the rebel camp, and consulted with his friends. They decided that since they were compelled to fight, they would take their own choice as to the side on which they would fight. Capt. McDaniel carried back with him to the Union Indians, a good supply of ammunition, taken from the rebel stores.

Cooper lay in camp until the morning of December 9th, when he discovered that the Cherokee regiment was entirely broken up. Five captains, and five hundred (500) men had gone over to the Union Indians, carrying with them arms and ammunition, making now over six hundred (600) Cherokee warriors, on the Union side. Others belonging to the regiment scattered, and only a small remnant was left in camp.

After this, Cooper was afraid to risk a fight, and began to retreat. But a scout from Stand Watie's regiment captured some of the loyal Cherokees, and ran with them to the rebel lines. Our men pursued, but the rebels had killed some of the prisoners before they could get to their rescue. This brought on a general engagement, and we fought the rebels for six hours, when they fled in confusion, leaving their dead and wounded in our hands.

All this was done when there was no Federal force within two hundred (200) miles of us, and no communication with the United States Government or its officers. Solitary and alone, we fought for the Government, when she was unable to redeem her pledge of protection, repeated in every treaty for three quarters of a century, and which, in the Treaty of 1835, Article 6th, is thus expressed: "The United States agree to protect the Cherokees from domestic strife and foreign enemies, and against intestine wars between the several tribes."

After this fight, Capt. McDaniel was sent to Kansas, with all speed, to beg the Federal authorities to help us maintain our ground. But in that dark hour of calamity, when in our fidelity to the Union—we had staked our all—our property—our homes—our country and our lives—no help could be had.

We cannot adequately depict the scenes which followed in consequence of this failure to obtain help from the Federal army, as seven thousand (7,000) loyal Indians were driven before a foe, infuriated by defeat, and strongly reinforced. With their eyes turned toward the North, ever hoping for succor, the warriors battled in the rear, covering the retreat, while the old men, with women and children, half starved, half clothed, bare footed, waded through the frozen snows, and breasted the keen winds on the prairies. Never will their sufferings be known. Frozen hands and feet—starved and emaciated frames—swift fevers, and lingering diseases, filling a thousand premature graves, all bear witness to their patriotic sufferings.

The patriotic devotion of these people has rarely been equalled in the annals of history. On the South was Texas—on the East were Arkansas and Missouri—*all hostile*—to the North it was more than two hundred (200) miles to the nearest aid. A large part of that two hundred miles, was an uninhabited wild, and unprotected from the enemy. Yet that battle was fought by these warriors, and that distance was marched by men, women and children, without aid from the United States Government or people. Had the inhabitants of some county in North Carolina started of their own accord to escape the curse of rebellion, and fought and whipped a rebel brigade, and marched to Washington, even through the cultivated lands of Virginia, they would justly have been lauded as heroes. Had these things been done by the African race, the history of that fight and march would have been sung in paeans of praise all over the land.

After incredible miseries, these Creeks, Seminoles and Cherokees, and individuals of the tribes reached Kansas.

That portion of the Cherokee warriors who had taken part in this fight, but whose families were at home, returned home from the battle. Upon the interposition of the Chief, Gen. Cooper decided to waive an investigation, and overlook this whole affair. The officers were permitted to resign. The men returned to the service, and that portion of the regiment which had not gone to Kansas, was once more brought together. These loyal men accepted such terms, simply because there was nothing else that they could do, to escape being hunted down like wild beasts, and keep their families from being exposed to any abuse the rebels might see fit to heap upon them. With alternate hope and despair, they waited for the day of deliverance, under the eye and in the power of an ever watchful and suspicious foe.

In the summer of 1862, that long wished for deliverance came. The Union army, under Col. William Weir, entered our borders. Rev. Evan Jones, who, for more than forty years had been a Missionary among us from the Baptist Missionary Union, and his son, Rev. J. B. Jones, who also had been a Missionary among us, from the same society, and Capt. McDaniel, with many others who had been driven from our country by the rebels, were in that army as officers and soldiers. Jones and McDaniel sent a member of the

Loyal League, with a message and a letter, to those members of the League who were in the rebel camp. They invited them to forsake the hated standard and enlist under the Stars and Stripes. The Cherokee regiment, in the rebel service, again fell to pieces. The men scattered to every part of the Nation, gathered together their friends, and marched into the Union camp, and enlisted in the Federal army. As the result of this movement, two regiments of Cherokees were raised, one of ten companies, and the other of twelve. These, together with the regiment of Creeks and Seminoles, which was already in the Union army, were formed into the Indian Brigade. They were now assured by United States Agents, Carruth and Martin, "That the Government was prepared to fulfill all its treaty obligations to the Cherokees."

At the very earliest day that the exigencies of the war would permit, the National Council was convened in extra session. It met at Cowskin Prairie, in the Cherokee Nation, in February, 1863. There the treaty with the rebels was declared to have been entered into under duress, and, therefore, to have no binding effect, either in law or morals. It was, therefore, abrogated and revoked, and declared to be null and void. But this Council did not stop here. It passed an act expelling from office every disloyal person, and declared their offices vacant. To make their work complete, at that early day (February, 1863,)—before any slave State made a movement towards emancipation—the Cherokee Nation abolished Slavery unconditionally and forever, and the enslaving or the holding in slavery of a human being within the limits of the Cherokee Nation, was declared to be a misdemeanor, punishable by a fine of from one thousand to five thousand dollars for every offence. These acts are hereunto appended for your information.

The Cherokee regiments mentioned above fought for the Union in the battles of Bayou Maynard, Spring River, Newtonia, Mayesville, Cane Hill, Prairie Grove, twice at Cabin Creek, twice at Fort Gibson, at Barren Fork, Honey Springs and Green Leaf—together with many other smaller fights. Under that gallant officer, Col. Wm. A. Phillips, the Indian brigade for many months held the most advanced line of the Union army on the south-west, and that against vastly superior numbers, and far removed from supplies or any supporting force.

How well we have served the Government through all the varying fortunes of the war we will not say. We appeal to the testimony of the white officers by whose side and under whose command we have fought for three years. And we beg leave, respectfully, to refer to a letter written November 21st, 1862, by Gen. J. G. Blunt, then commanding the Army of the Frontier, to Hon. Caleb B. Smith, then Secretary of the Interior. In speaking of a Cherokee regiment Gen. Blunt says, "It is but justice to say of them, that their discipline and deportment are as good as those of any other troops, and their services of as much, nay of more value to the government in this section of the country than those of any other regiment in the service."

But especially do we appeal to the testimony of Col. William A. Phillips, who so long and so nobly commanded the Indian brigade.

His ample reports are filed in the proper Departments. Let him tell with what zeal and constancy we have fought and labored and suffered in the service of the Union.

We boldly claim that we have done our duty, to the full extent of our power, as the friends and allies of the Federal Government. More than three fourths of the able bodied men of the loyal Cherokees, fought in the Federal army, which is a vastly larger proportion of men than any State in the Union has furnished for the war. We fought to the end of the war, and after the last rebel was whipped, we were honorably mustered out of the service. The graves of eight hundred Cherokee warriors, fallen by our side in your service, testify that we have done our duty. Now, having done our whole duty to the Government, all we ask is that the Government do its duty to us—that it fulfill its treaty obligations to us—that it redeem its solemn, reiterated pledges. We ask no gifts, no charities, but simply our rights—the rights for which we have fought and bled in your armies, and for which so many of our noblest men have died.

We make our earnest appeal to the President of the United States and to Congress. We entreat you to regard sacredly your past treaties with us, and to enact no law that shall sweep out of existence those most sacred rights which you have guaranteed to us forever.

In the 5th Article of the Treaty of 1835, we find this pledge, viz.: "The United States hereby covenant and agree, that the lands ceded to the Cherokee Nation in the foregoing articles, shall in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory." Similar pledges have been repeated in other treaties. Can you now violate this stipulation, by including us in the Indian territory which this bill proposes to erect? We have already suffered enough in this way. By the Kansas and Nebraska bill, a tract of eight hundred thousand (800.000) acres of our land, for which we paid to the Government half a million of dollars ($500.000), was included in the territory of Kansas. It is now in the State of Kansas, and to a large extent is inhabited by white people. This measure was adopted years before the war, and in violation of the express terms of our treaty, as cited above. (See, also, Article 2d, last ¶, and Article 3d, of the same treaty.) If such a state of things should arise in transactions between individuals, the very least demand of justice would be to pay the full value of that tract of land to the injured party.

But again, in Article 5th, of the Treaty of 1835, cited above, it is covenanted and agreed that the United States "shall secure to the Cherokee Nation, the right, by their National Councils to make and carry into effect such laws as they may deem necessary for the government and protection of the persons and property within their own country belonging to their people, or such persons as have connected themselves with them." Can you now, in the face of this pledge, after we have formed a Constitutional Government, and so long, and so successfully administered it, can you tear from us the last vestage of the right of self-government, by placing us under a Governor, Judges, Marshalls, and Attorneys, in the choice of whom we are to have no voice; and a Governor, too, vested with such extraordinary powers, that no law can be passed over his veto?—thus, not only sub-

verting our present government, but rendering it impossible for us ever to have any government of our own.

Have we not suffered enough, in that the torch, both of friend and foe, has consumed our dwellings, and desolated our land, and in that the armies of both parties to the war have subsisted on our cattle? While we were fighting the battles of the Union, our land, which you could not protect, though pledged to do so, was infested by "Jayhawkers," and army followers from the North, who drove out and carried from our country, millions of dollars worth of stock and other property, so that we are utterly impoverished. In confirmation of this statement, we quote the words of Hon. Justin Harlan, U. S. Indian Agent, in his report for 1864. Judge Harlan says, "While the rebels, bushwhackers, and guerillas, have taken [from the Cherokees] horses, cattle, hogs, corn, and other crops—all they wanted—white men, loyal, or pretending to be so, have taken five times as much, and all kinds of stock has been driven North and West, and sold." We might quote much more of the same purport.

That which aggravates our sorrow still more, is the fact, that all the robbers and jayhawkers, who have been stealing our stock, and all the faithless officials, who have been plundering both the Government and the Indians, are loud in denouncing the Cherokees as rebels —hoping by their unscrupulous slanders, to divert attention from their own villainy. Thus they have deceived and misled many good and honest men. We are wronged and belied, while war and pestilence and famine have filled our land with mourning and death.

During the progress of the war, white and African refugees have been fed and clothed at public expense. Of this we do not complain. But when *our people* were driven from their homes, in which the United States was bound to protect them, the Indians' own money was appropriated to feed them, and these appropriations were so used that scarcely a tithe of the money's value ever reached the Indians.

Ye Rulers of America, our cry is unto you as unto God-fearing men. Let justice be done—Let our country, and the sacred right of self-government, guaranteed by treaties, be secured to us—Give us a reasonable indeminty for our losses—Let an equitable settlement be made for our lands in Kansas—Let the interest due and accruing on our investments be paid over, as provided by treaty, that our Government and schools and seminaries may be sustained—that an orphan asylum may be provided for our thousand orphans, many of them the children of heroic soldiers, fallen fighting for the Union.

Now that the unity of your own great Republic has been secured, and the blood and toil and suffering of patriotic Cherokees have helped to cement the Union, we ask that you preserve and protect both the integrity and the peace of our Nation, against the machinations of all those who would rend it to fragments.

Our people are already far advanced in civilization, and are all anxious for still further advancement in all that pertains to civilization and Christianity. With the blessing of God, all we want to make us a

happy and prosperous people, is that the Government secure to us our rights, immovably.

SMITH CHRISTIE, Late Capt. Co. A, Third Indian Regt., U. S. V.
JAMES MCDANIEL, Late Capt. Co. A, Second Indian Regt., U. S. V.
THOMAS PEGG, Late Capt. Co. E, Third Indian Regt., U. S. V.
WHITE CATCHER, Late Capt. Co. I, Third Indian Regt., U. S. V.
DANIEL H. ROSS, Late Sutler, Third Indian Regt., U. S. V.
J. B. JONES, Late Chaplain, Second Indian Regt., U. S. V.
S. H. BENGE, Late 1st Lieut. Co. A, Third Indian Regt., U. S. V.

} CHEROKEE DELEGATION.

WASHINGTON, D. C., *January 24th*, 1866.

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Whreas, on the 21st day of August, 1861, a General Convention of the people of the Cherokee Nation was held at Tahlequah, in the Cherokee Nation, whereat it was "*Resolved*, That, reposing full confidence in the constituted authorities of the Cherokee Nation, we submit to their wisdom the management of all questions which affect our interests, growing out of the exigencies of the relations between the United and the Confederate States of America, and which may render an alliance on our part with the latter States expedient and desirable," and, whereas, in accordance with said resolutions, a Treaty of Alliance and Friendship was entered into, on the 7th day of Oct., A. D., 1861, between Albert Pike, Commissioner representing said Confederate States, and the said authorities of the Cherokee Nation. And, whereas, said proceedings were the result of the absence of the protection guaranteed to the Cherokee Nation, by the Government of the United States, and the overwhelming pressure of the circumstances which surrounded them, consisting in part of the secession of the States of Missouri, Arkansas and Texas, and the Creek, Seminole, Choctaw, and Chickasaw Nations, the presence of the troops of the Confederate States on our borders, and in our country, and the calling into the service of a regiment composed of disaffected Cherokees and whites, under the authority of Gen. McCulloch, and the purpose of the Confederate States, as manifested by the Legislation of their Congress, and the acts of their Commissioners, to sieze the Indian country, through an arrangement with a reckless minority of the Cherokee people, or by force of arms, if necessary, and which said circumstances isolated the Cherokee Nation, weak and unarmed, and cut them off from communication with the Government at Washington, except through faithless Government Agents, and thus deprived them of all freedom, and coerced them into the acts cited above.

And, *whereas*, acts performed under such duress, have no binding effect, in law or morals.

Therefore: Be it enacted by the National Council, That the Treaty of the 7th of October, 1861, between the Confederate States and the Cherokee Nation, and all proceedings had thereon, be and the same are hereby revoked and declared to be null and void.

Be it further enacted, that the Cherokee people reassert the binding obligations of their treaties with the United States, and claim at their hands the protection, rights, and privileges guaranteed by them, and due to the Cherokee people by the fidelity they have shown to the Government, while in the service of her army.

Be it further enacted, That the principal Chief be requested to call a convention of the Cherokee people as early as practicable, and lay before them, for their approval and ratification, the provisions of this act.

Cowskin Prairie, Cherokee Nation,
February 18th, 1863.

Signed,

LEWIS DOWNING,
Pres. *pro tem.* National Committee.

Concurred in Council,

SPRING FROG,
Speaker of Council.

WILLIAM SCRAPER,
Clerk of Council.

Approved, Feb. 18th, 1863.

THOMAS PEGG,
Acting Principal Chief.

An act for the removal of disloyal men from office.

Be it enacted by the National Council, That all officers of the Cherokee Nation, in the legislative, judicial, and executive departments, and all other

officers whatsoever, who are disloyal to the Government of the United States and to that of the Cherokee Nation, be and the same are hereby removed from office, and their repective offices are hereby declared vacant.

LEWIS DOWNING,
Pres. *pro tem.*, National Committee.

J. B. JONES, Clerk National Committee.

Cowskin Prairie, Cherokee Nation,
February 20th, 1863.

Concurred in Council, Feb. 20th, 1863.

SPRING FROG, Speaker Council.
WM. M. SCRAPER, Clerk Council.

Approved, February 20th, 1863.

THOS. PEGG, Acting Principal Chief.

An Act Emancipating the Slaves in the Cherokee Nation.

Be it enacted by the National Council, That all Negro and other slaves, within the limits of the Cherokee Nation, be and they are hereby emancipated from slavery,—and any person or persons who may have been held in slavery, *are hereby declared to be forever free.*

Be it further enacted, That this act shall go into effect on the twenty-fifth (25th) day of June, 1863. And any person who, after the said 25th day of June, 1863, shall offend against the provisions of this act, by enslaving or holding any person in slavery within the limits of the Cherokee Nation, he or she so offending shall, on conviction thereof before any of the Courts of this Nation having jurisdiction of the case, forfeit and pay for each offence, a sum not less than one thousand ($1.000) dollars, nor more than five thousand ($5.000) dollars, at the discretion of the Court.

Two thirds of said fine shall be paid into the National Treasury, and one third shall be paid, in equal sums, to the Solicitor and the Sheriff of the District in which the offence shall have been committed. And, it is hereby, made the duty of the Solicitors, of the several Districts, to see that this law is duly enforced. But in case any Solicitor shall neglect or fail to discharge his duties herein, and shall be convicted thereof, he shall be deposed from his office, and shall thereafter be ineligible to hold any office of trust or honor in this Nation.

The Acting Principal Chief is hereby required to give due notice of this act.

Be it further enacted, That all laws and parts of laws conflicting with the provisions of this act, be and are hereby repealed.

Cowskin Prairie, C. N.,
Feb. 21st, 1863.

J. B. JONES,
Clerk National Com.

LEWIS DOWNING,
Pres. *pro tem.*, National Committee.

Concurred in Council,

SPRING FROG, Speaker of Council.

Approved Feb. 21st, 1863.

THOS. PEGG, Acting Principal Chief.

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